IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(*Special Original Jurisdiction*)

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FRIDAY, THE TENTH DAY OF MARCH

TWO THOUSAND AND SIX

P R E S E N T

THE HON'BLE SRI JUSTICE V.ESWARAIAH

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WP.No.21100 OF 2005

Between:

S.Radhakrishna … Petitioner

Versus

Girijan Co-operative Corporation Ltd.,

Represented by its Vice-Chairman

Managing Director,

East Point Colony, Visakhapatnam & Ors. … Respondents

Counsel for the Petitioner: Dr.P.B.Vijaya Kumar

Counsel for the Respondents: Sri N.Sridhar Reddy

O R D E R :

While the petitioner working as Deputy General Manager of the first respondent-corporation holding the post of Divisional Manager, Rampachodavaram, a charge memo RC.No.1409/99/A1 dated 30-7-1999 was issued framing the following charges:

Charge No.1 : "*that he miserably failed to supervise the operations in order to confirm the standards prescribed by Niger Seeds during 1997-98 season*"

Finding: Charge No.1 is held proved beyond any doubt.

Charge No.2 : "*that he failed to check the Niger Seed Stocks stored in Godowns before transport to Mumbai during 1997-98 season*"

Finding: Charge No.2 is held proved comprehensively.

Charge No.3: "*that he failed to arrange for pre-transport analysis*

of Niger seed through dependable surveyors before

the stocks left the godowns of GCC during 1997-98"

Finding: Charge No.3 is held proved beyond any doubt.

Charge No.4: "*that he failed to evolve strong supervisory mechanism*

at the time of transportation of Niger seed from GCC

Godown and storage at the premises of M/s. Pradeep

Agro Products Ltd., Mumbai during 1997-98 "

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Finding: Charge No.4 is held proved beyond any doubt.

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Charge No.5: "*that he failed to supervise and monitor processing*

of Niger Seed by M/s.Pradeep Agro Food Products

pvt.Ltd., Mumbai to ensure presence of represen-

tative of the Corporation throughout the period

of processing during 1997-98 season "

Finding: Charge No.5 is held proved beyond any doubt.

Charge No.6: "*that he failed to respond to the report of high*

percentage of refraction from Mumbai screening

firm during 1997-98 and never bothered to

verify the veracity of the report of high percentage

of refraction "

Finding: Charge No.6 is held proved comprehensively.

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Charge No.7: "*that he deliberately disposed of the residue coming to such a high percentage 16.02% at the screening firm at Mumbai during 1997-98 with an ulterior motto and with the intention to extinguish any sort of evidence regarding the high presence of sand/dust and other foreign material in Niger Seed*"

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Finding: Charge No.7 is held not maintainable and dropped.

Charge No.8: "*that he failed to pay regular visits to the field where Niger Seed was procured/stored and to Mumbai during the entire period of of procurement and processing of Niger Seed during 1997-98 season to check any scope for malpractices*"

Finding: Charge No.8 is held proved.

Charge No.9: " *that he failed to lay down procedures and allowed the processing agency to dispose of huge quantity of 1,41,231 Kgs., residue without observing established procedures*.

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Finding: ChargeNo.9 is held dropped.

Charge No.10: "*that he shall be personally held responsible for the entire pecuniary loss of Rs.31,98,291-72 sustained by the Corporation in the business of Niger Seed during 1997-98 season because of the avoidable presence of 16.02% of refraction which is far higher compare to 8.5% and 9.07% during 1995-96 and 1996-97 respectively*.

Finding: charge no.10 is held proved.

Accordingly, the first respondent-corporation by his order dated 25-01-2005 in RC.No.1409/99.Admn.I inflicted the petitioner compulsory retirement from the services of Girijan Co-operative Corporation Limited, Visakhapatnam, besides directing for recovery of the loss of Rs.6,71,964-00 to be recovered from the terminal benefits of the petitioner.

As against the said order, the petitioner filed an appeal before the Board of Directors, Girijan Co-operative Corporation within the prescribed time. The Board of Directors, Girijan Co-operative Corporation Limited, Visakhapatnam by resolution dated 18-8-2005 vide resolution no.82/2005-2006 considered the said appeal and passed the following order:

"*The Board has personally heard the appellant on 18-5-2005. After hearing, the case was examined with reference to*

the records on 18-5-2005. However, in order to have more details, the Board has adjourned the appeal to the next meeting on 22-6-2005. The Board has again discussed the grounds of appeal on 22-6-2005 and after detailed examination, called for certain information adjourning the mater to the next Board meeting. On 18-8-2005, the appeal was again taken up for discussions and was re-examined with reference to the material available and placed before the Board. The official Directors have, however, requested to adjourn the case to acquaint with the case themselves. The non-official Directors of the Board have opposed for the postponement. The Board finally felt that reasonable time was already given by adjourning the appeal thrice and that there is no reason to go on postponement of the appeal and resolved that the punishment contained in the Final Order under appeal i.e., CRS and recovery of losses is set aside. The appellant is reinstated to duty treating the period from the date of relief on CRS to the date of rejoining as "Duty". The appeal is accordingly disposed off ".

It is clear from the said resolution that the petitioner was exonerated from all the charges and accordingly the appellate authority directed to reinstate the petitioner. But the said resolution was not implemented by the first respondent.

It is further stated that the question of manner and the mode in which the resolution passed by the Board of Directors, the first respondent filed WP.No.25141 of 2005 seeking a direction to the Government for taking immediate action on the issue and referred the mater to the Government as per bye-law no.54 of the bye-laws governing the respondent-corporation. The said writ petition was dismissed as withdrawn on the ground that there was assurance given by the Government that the Government will take up the matter.

The learned counsel appearing for the petitioner submits that the Chairman of the Girijan Co-operative Corporation Limited also addressed a letter on 14-2-2005 to the Principal Secretary to the Government, Tribal Welfare Department, Andhra Pradesh, Hyderabad and that the resolutions passed by the Board of Directors are in accordance with bye-law no.16

of the bye-laws of the Corporation.

As the matter stands as on today, the appeal filed by the petitioner was allowed by the Board of Directors, Girijan Co-operative Corporation Limited, and therefore, I am of the opinion that there no any justification on the part of the first respondent in not implementing the said resolution. But however, implementing the said orders of the Board of Directors will be subject to the result of the orders that may be passed by the Government.

Accordingly, the writ petition is allowed, directing the first respondent-corporation to reinstate the petitioner forthwith, but however, the said reinstated order will be subject to the orders that may be passed by the Government.

With the above direction, the writ petition is allowed at the admission stage. No costs.

MARCH 10th, 2006. ----------

Is L. V. ESWARAIAH , J.